



was residing with his girlfriend in Wilkes-Barre, Pennsylvania, despite not having been given permission to travel to or reside in the Middle District of Pennsylvania. *Id.* He also received a speeding ticket from the Wilkes-Barre Police Department on October 15, 2021. *Id.* Defendant never notified Probation of his change of address and, as of November 19, 2021, failed to report the location of his legal residence and his current whereabouts. *Id.*

On June 1, 2022, the Court held a status conference regarding Defendant's instant violations. Defendant failed to appear.

## **DISCUSSION**

### **I. Legal Standard**

A defendant released pending trial pursuant to 18 U.S.C. § 3142 “who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.” 18 U.S.C. § 3148(a). After a hearing, a judicial officer “shall enter an order of revocation and detention if . . . the judicial officer – (1) finds that there is . . . clear and convincing evidence that the person has violated any other condition of release; and (2) finds that – (A) based on the factors set forth in section 3142(g) of this title, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or (B) the person is unlikely to abide by any condition or combination of conditions of release.” 18 U.S.C. § 3148(b).

The Court may revoke Defendant's bond upon a finding that there is “clear and convincing evidence that [he] has violated any [] condition of release” and, based on the factors set forth in 18 U.S.C. § 3142(g), “there is no condition or combination of conditions of release that will assure that [he] will not flee or pose a danger to the safety of any other person or the community; or [he] is unlikely to abide by any condition or combination of conditions of

release.” *United States of America v. Russo*, No. 20-CR-023 (DLI), 2021 WL 1176169, at \*2 (E.D.N.Y. Mar. 29, 2021) (Irizarry, J.) (citing 18 U.S.C. § 3148(b)(1-2)). “The clear and convincing evidence standard is somewhere between the preponderance of the evidence standard and the proof beyond a reasonable doubt standard.” *Bastien v. William*, No. 03 Civ. 5749, 2004 WL 2978283, at \*4 (S.D.N.Y. Dec. 20, 2004) (Cote, J.) (citing *Addington v. Texas*, 441 U.S. 418, 431 (1979)). There must be “a high degree of certainty” that Defendant violated the conditions of his release. *United States v. Chimurenga*, 760 F.2d 400, 405 (2d Cir. 1985).

## **II. Application**

There is clear and convincing evidence Defendant violated the conditions of his supervision. Within four months of his release from custody, Defendant tested positive for marijuana, an illicit substance, and disclosed he was living in Wilkes-Barre, Pennsylvania, even though he never received authorization from Probation to travel to the Middle District of Pennsylvania. Defendant’s failure to report his whereabouts to Probation and his October 15, 2021 speeding ticket from the Wilkes-Barre Police Department further corroborate his unauthorized leave from the Eastern District of Pennsylvania. In light of these repeated violations, the Court also finds the Defendant is a flight risk and is “unlikely to abide by any condition or combination of conditions of release.” 18 U.S.C. § 3148(b).

## **CONCLUSION**

For the foregoing reasons, the Court revokes Defendant’s bond, and orders the issuance of a warrant and for Defendant to be remanded into custody.

SO ORDERED.

  
**s/WFK**

  
HON. WILLIAM F. KUNTZ, II  
UNITED STATES DISTRICT JUDGE

Dated: June 1, 2022  
Brooklyn, New York